

19

Department of

OFFICE Bd of Rev

STATION Floras

File No. 3239

Dated 14 11 38

Pages in the file

(SUBJECT)

Advance Loans - (Bellay)
Bellay T. L. K. Kappafal
Erapu - Insolvency - Sale
of properties of Official
Receiver. Please. Inspect.

In reply, please quote
number, date and
short title.

Received _____ Registered _____

From (Name) J.W.Pritchard Esq., I.C.S.,

(Designation) Collector,

Post Box _____, (Station) Bellary.

Telegraphic Address _____



To

The Secretary, Board of Revenue,
M a d r a s .

Ref.C. No. 4809-36 A, dated 10th October 1938.

Sir,

ENCLOSURES _____

ADVANCES - Loans - (Bellary)- Bellary taluk - Kappagal
Erappa - Insolvency - sale of properties by the
Official Receiver - Set aside - Resale ordered -
further instructions requested.

SPARE COPIES _____

Ref:- Board's Refce. Misc. No. 2013-38 dated 21st ^{July} ~~August~~ 38

The Official Receiver Bellary requests to be informed whether the sale of the properties should be conducted free of Takavi encumbrances but with a first charge on the sale proceeds to the Government after deducting his commission and expenses or subject to Takavi encumbrances. I consider ²lands are sold free of encumbrances, Government may realise the Loans arrears to certain extent but, if they are sold with encumbrances I doubt very much if there will be any bid at all. As there is no provision under which Collector can legally agree to the relinquishment of rights in properties hypothecated to the Secretary of State for India under L.I.L. Act, I request the Board to issue instructions in the matter.

O.S./11.10.


For Collector.

C.F. 16

SUBJECT :—

Advances. Loans
(Bellary). Bellary Taluk
Kappagal Village Grama
Insolvency. Sale of
properties for official
expenses. Resale.
Instructions issued

READ AGAIN _____, dated _____

READ ALSO:—

No. 9207 From the Collecting No. Ref B, dated 10 10 1907
38 Bellamy 4809-3841 38 9 10
 " " " " " 19_____
 " " " " " 19_____
 " " " " " 19_____

Order Ms. No. 3239, dated 11/11/38
Resolution Dept.

The collector is informed that the sale should be subject to the loan arrears due to Govt. His attention is also invited to BP 2013 Mis., dated 21.7.38 and he is requested to carry out the detailed instructions contained therein (from orders)

The Collector. of
Bellary

Σκο
124/28

14/11/20

Done 4-228 $\frac{.9}{12} = .38$

Note file

Advances - loans - (Bellary) - Bellary TR - Kappagal
village - Erappa - Insolvency - sale of properties by
official receiver - instructions.

S. 9207 from Bellary, 2C 4809-A-18. 10-10-38
1CF

To AS (Sett)

Kappagal Erappa (in Bellary) who ~~was~~ ^{was} adjudicated an insolvent, was in arrears of about Rs 2650 in 1931 in four state loans granted in fiscal '1331/1332. In 1932 the official receiver sold the insolvent's properties hypothecated for the state loans, to his son and his wife's sister for nominal values, without the knowledge of the Colls. The Colls had, however, intimated to the official receiver that the latter could sell the lands free of encumbrances provided a first charge was created on the sale proceeds in favour of the Govt. When the fact of the actual sale of the lands to the insolvent's near relations at nominal values was brought to the Colls' notice in 1932, long after the sale was confirmed by the Court, the Colls (present Mr.) filed an interlocutory petition in the Dist Court to set aside the sale

2) Rs 3605 in
6/12/32

on grounds of fraud and for want of authority for a Court to permit the sale of the decanted properties free of encumbrances.

The District Judge dismissed the petition as time-barred. On appeal, the High Court reversed his order and directed the District Judge

H-21-23
(2)

to dispose of the petition on merits. The District Judge set aside his sale by the official receiver. The Court now states that the

H-7-8 [0]

official receiver asks whether the sale of the properties should be conducted (1) free of encumbrances, but with a first charge on the net sale proceeds, or (2) subject to Tahhavi encumbrances.

The Court further states that there may not be any bid at all if the lands are sold subject to Tahhavi encumbrances.

All the trouble of moving the District Court the High Court for setting aside the original sales was taken because the lands were originally sold for low values fraudulently. The other authority to permit the official receiver without encumbrances was also repudiated. The Board has already asked the Court to direct the Tahhavi to give wide publicity of the sales, to gather bidders and to guard against

Collusion

Collusion and fraud during the sale
by the official receiver. If even in spite
of such vigilance, there are no bids,
it would follow that the lands are
not really worth the large amount due
to the Govt. The extent of the lands is
89.99 acres (presumably due) and the amount
due to the Govt. as in 1931 was about Rs 2650.
It is incredible that such a large extent
would not fetch at least Rs 1000, at
the rate of a little over Rs 11 an acre. If
there are no bids in the sale subject
to the Takhavei encumbrances, the
Colln may be asked to purchase the
lands on behalf of the Govt. at nominal
values.

If, however, it is considered
that the Colln may be told to permit
the official receiver to sell the lands
without encumbrances but with a
first charge to the Govt. on the net
sale proceeds, it is submitted that
such a course being outside the
Takhavei Loans Rules and the interest
involved being over Rs 500, the
sanction of the Govt. should be
obtained beforehand. There does
not appear to be any special
reasons

reasons in this case for going
to the Govt. for such sanction
For order.

5WB The position taken up by the Collr in 1931 was
that the low price realised at the sale by the Official
Receiver on 10.10.31 was due to fraud and it was on his
application to set aside the sale on this ground that the
Ht Judge cancelled the sale on 24.11.37. The Collr's present
opn that there may be no bid at all if the lands are
sold subject to the loan arrears and that something
towards loan arrears may be realised if the sale is
held free of encumbrances (as on 10.10.31) cuts at the
root of the allegation of fraud. Apparently he has
not thought of the implication of his suggestion but
has merely repeated what the Official Receiver has
told him.

The Collr may be told that the sale shd be
subject to the loans & arrears due to Govt and
he may be asked to carry out the detailed instructions
already issued in B.O. of 21.7.35

has
7/11/38

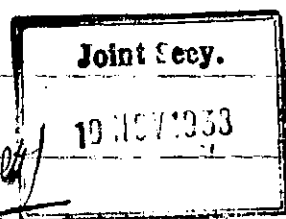
To A.S. (Sd)

Draft Submitted

2/11/38
2/11/38

14/11

J.S. 12/9/11



ASCO

10/11

Q-p1

free from encumbrances

Q-p1

p.c.f

But is this sale
was free from encumbrances
or low price was a
consequence of fraud.
J.S.

J.S.

Q-p1

